

# REGULATION

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<b>Subject:</b>  IMPLEMENTING A REDUCTION IN FORCE FOR NONEXCLUSIVELY REPRESENTED EMPLOYEES			

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NOTE: ~~THIS REGULATION REPLACES AND SUPERSEDES Selection Administrative Procedure 7, "Implementing a Reduction in Force for Nonexclusively Represented Employees," Effective May 6, 1992, issued under AA letter CS-6477, Advisory Bulletin CS-263-92, "Preauthorized Employment Preference Table Revisions."~~

### AUTHORITY:

~~The Michigan Constitution of 1963, Article 11, Section 5, states in part:~~

~~*The commission shall make rules and regulations covering all personnel transactions and regulate all conditions of employment in the classified service...  
No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion.*~~

## 1. PURPOSE

This regulation establishes standards, guidelines, and procedures, which are to be followed when implementing staff reductions of nonexclusively represented employees (NEREs).

## 2. CIVIL SERVICE COMMISSION RULE REFERENCE

Sections ~~2-18 and 2-19~~ 2-3 and 2-4 of the Michigan Civil Service Commission Rules specify the conditions and the method by which reduction-in-force actions will occur (application of employment preference).

- A. ~~2-18.12-3.1~~ Reasons for Layoff. — An employee may be laid off for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in departmental mission, or reorganization of the work force.
- B. ~~2-18.22-3.2~~ Notification. — ~~In every case of layoff, the~~ An appointing authority shall give prior written notice ~~on the prescribed form to the employee to an employee who is laid off.~~
- C. ~~2-18.32-3.3~~ Procedure for Making Layoffs. — ~~An appointing authority Layoffs shall lay off employee be made in accordance with the employment preference civil service rules. An appointing authority shall lay off employees in accordance with the civil service rules and regulations governing employment preference.~~
- D. 2-4.1 Application and Protection.
- (a) Application. Unless otherwise provided in an approved departmental layoff plan, an employee shall apply employment preference only within the employee's current principal department or autonomous entity established pursuant to law, unless otherwise permitted in an approved departmental layoff plan. However, an employee may not apply preference against a position or classification that is protected from the application of employment preference.
- (b) Limited-term appointments. An employee is not eligible to exercise employment preference or to be placed on a recall list at the end of a limited-term appointment, unless the employee meets one of the following criteria.
- a)(1) An employee with status gained from an indefinite appointment to a permanent position who transfers or accepts a limited-term appointment may exercise employment preference at the end of the limited-term appointment. Employment preference begins at the last classification level at which the employee achieved status in an indefinite appointment before accepting the limited-term appointment. Employment preference may be exercised only within the principal department or autonomous agency entity that appointed the employee to the limited-term appointment.
- a)(2) A person who is recalled on a limited-term basis is not eligible to exercise employment preference at the end of the limited-term

appointment, but shall be returned to all recall lists for which the employee is eligible

~~(b)~~(c) Protected positions. An employee occupying a protected position cannot be displaced from the employee's current position by another employee exercising employment preference. An employee in a protected position does not lose the rights to apply employment preference to an unprotected position if the employee's protected position is abolished. The following positions are protected positions.

~~a)~~(1) All positions in senior executive service (SES) classifications, including positions in SES-eligible classifications.

~~a)~~(2) All positions in ECP Group 4 classifications.

~~a)~~(3) All positions in senior executive management assistant service (SEMAS) classification.

~~a)~~(4) Any other position designated as protected in any other civil service rule or regulation.

E. 2-4.2 Determination.—Employment preference is determined by an employee's total continuous service.

(a) Ranking employees with identical service. If two or more employees have equal total continuous service, the appointing authority shall rank each employee by evaluating such factors as fitness for the position, education, experience, behavior, and performance. An employee receiving a higher ranking shall be considered to have greater employment preference. An employee may not appeal a ranking to the department of civil service or the civil service commission unless the ranking violated rule 1-7.

(b) Loss of employment preference. An employee who separates from the state classified service by methods other than a level of absence, suspension, or layoff, shall lose any total continuous service accumulated prior to that separation.

(c) Effect of status. An employee having status from current employment, regardless of the classification level at which status was obtained, shall have greater employment preference than an employee who does not have status.

(d) Affirmative action exemption. In order to preserve affirmative action gains made in a program approved by the Michigan department of civil rights and the department of civil service, the state personnel director may exempt an appointing authority from using a strict application of total continuous service, in accordance with regulations issued by the director.

**F. 2.19.42-4.3 Qualification.** — An employee may apply preference against a least senior position if all of the following eligibility criteria are met:

- (a) **Position and eligibility.** An employee ~~is eligible to~~ may apply preference (1) to a least senior position in a classification or class series in which the employee is serving or (2) to a least senior position in a classification or class series at ~~and or~~ below the classification level in which the employee ~~has previously attained status~~ served and completed at least 1,040 hours of satisfactory service.
- (b) **Subclasses.** If ~~one or more~~ subclass codes have been assigned to the least senior position, the employee ~~is eligible to~~ may apply preference only if the employee has been assigned one or more of the same subclass codes in the same classification or class series at or above the classification level of the least senior position.
- (c) **Selective certification position requirements.** If selective ~~certification~~ position requirements have been established for the least senior position, the employee is eligible to apply preference only if the employee meets the selective ~~certification position~~ requirements.

**G. 2-4.4 Employee Rights to Apply Preference. —**

Application of preference {Ref. Commission Meeting July 2000}

(a) An employee shall apply preference only against another position within the employee's county of employment, unless otherwise permitted in an approved departmental layoff plan. An employee can apply preference to the least senior position for which eligible in the following order:

- (1) The least senior position in the employee's current classification.
- (2) The least senior position at a lower classification in the current class series or, alternatively, to the same or lower classification in a former class series in which the employee attained status, at the level that will minimize loss of pay.

(b) Departmental layoff plans. The department of civil service may approve a departmental layoff plan that varies the application of employment preference within a department or autonomous agency. An approved departmental layoff plan may vary the application of employment preference in the following areas only:

The application of county preference based on organizational or geographic limits.

- (1) The application of employment preference between recognized autonomous entities of a principal department.

*(2) The application of employment preference into additional positions in class clusters approved by the appointing authority and the department of civil service.*

*(3) The application of employment preference between employment types-eligible status codes. {Relocate subsection (b), Departmental layoff plans to 2-4.1(d).}{Ref. Commission Meeting July 2000.}*

**H. 2-4.5** *Application of Employment Preference between employees covered by a Collective Bargaining Agreement and those not Covered by a Collective Bargaining Agreement.*

- (a) **Qualification.** An employee may only displace a less senior employee in a position for which qualified in a classification in which the employee has attained status.*
- (b) **Application; exhaustion.** An employee not covered by a collective bargaining agreement must first exhaust all bumping rights to other positions held by employees not covered by a collective bargaining agreement. After exhausting all such rights, the employee not covered by a collective bargaining agreement may then bump into the position covered by a collective bargaining agreement that minimizes loss of pay, subject to the terms and conditions of the collective bargaining agreement. If a collective bargaining agreement expressly provides for exclusively represented employees covered by the agreement to bump into positions not covered by an agreement, they may do so only after exhausting all bumping rights under the agreement, and then in accordance with this rule. When more than one employee covered by a collective bargaining agreement is eligible to bump into a position not covered by a collective bargaining agreement, the most senior employee receives bumping rights.*
- (c) **Total continuous service.** Employment preference is determined by an employee's total continuous service.*
- (d) **Limitation on seniority.** A collective bargaining agreement shall not prohibit an employee who accepts a supervisory position or any other employee who is not covered by a collective bargaining agreement from exercising employment preference into a position covered by the collective bargaining agreement. In such bumping situations, seniority earned outside the unit shall apply except as limited by any collective bargaining agreement provisions in effect on January 23, 1983. The provisions of this section will only apply after the employee exhausts rights to displace other employees not covered by a collective bargaining agreement.*

(e) Grievances. A grievance that is based on the application and adverse effects of this section shall be filed, processed, and resolved pursuant to the grievance procedure provisions that are applicable to the position into which the exercise of employment preference has occurred or is scheduled to occur. This rule does not preclude the right of a nonexclusively represented employee to file a standard grievance, even after bumping into an exclusively represented position, if the employee contends he or she was denied the right to displace another nonexclusively represented employee.

- I. 2-4.6 Effective Date. — The employment preference rights of an employee ~~who is laid off or displaced prior to~~ before the effective date of any amendment to these rules or regulations shall be determined by the civil service rules and regulations in effect at the time of layoff or displacement.

### 3. DEFINITIONS OF TERMS:

#### A. Civil Service Commission Rules Definitions:

1. Appointing Authority means each of the following:
  - a. ~~(1) a~~ single executive heading a principal department.
  - b. ~~(2) The~~ chief executive officer of ~~each a~~ principal department headed by a board or commission, ~~or,~~
  - c. ~~(3) The~~ person designated by either of the preceding as ~~being~~ responsible for administering the personnel functions of the department, board, ~~or~~ commission, or agency of convenience.
2. Autonomous Entity means an executive branch organization or function established by law within a principal department, but specifically directed by law to be ~~an autonomous entity (i.e., a separate independent unit),~~ with the intent that its authority, powers, duties, and responsibilities including personnel, budgeting, procurement, and management-related functions be exercised free from the direction and supervision of the principal department.
3. Classification-Class Series means a series of classifications entry-level worker through specialists or supervisory/managerial-level classifications for a group of positions with similar but progressively more responsible job duties.

4. **Current Employment Period** means the period of state employment that commenced with service that is creditable for employment preference purposes and that has not been interrupted by a separation or break in service.
5. **Employment Preference** means a ~~system or~~ process for determining an employee's rights ~~to retain present classification level, or to displace another employee~~ when a reduction in force occurs. {Ref. Commission Meeting July 2000.}
6. ~~**Restricted Position Frozen**~~ means in reference to the employment preference process, those currently occupied classified positions which have been identified by the Human Resource Services Bureau, Department of Civil Service, as needing review for determination of proper classification and level prior to refilling. means a classification or a position to which an appointing authority is prohibited from making an appointment without prior review and approval of the department of civil service.
7. **Lateral job change** means the authorized movement of an employee to (1) a different position in the same classification or (2) a different position in a different classification at the same classification level.

~~7. **Involuntary Transfer** means the personnel transaction used to move an employee from one position to another, at the same or lower Position Comparison Equivalency Level (PCEL), as a result of the application of employment preference. Such movement always occurs within the same principal department or autonomous entity.~~

- ~~7.~~8. **Least Senior Position** means (1) a vacancy that the appointing authority intends to fill or, (2) lacking any vacancy, the position occupied by the person having the least total continuous service.
9. **Nonexclusive Represented Position** means (1) an excluded position or (2) an eligible position in a unit that has not elected an exclusive representative.

~~9.~~10. **Principal Department** means one of not more than twenty (20) executive branch departments provided for by Article 5, Section 2, of the Constitution ~~of 1963.~~

~~11. **Reassignment** means an authorized movement of an employee from one classified position to another at the discretion of an appointing authority. A reassignment takes place outside the certification process and is not an appointment. [Rule 3-1.4] An employee may be reassigned within his or her own agency (1) to another position in the same classification and level or (2) to a different classification at the same PCEL level, where the experienced (journey) level of the proposed classification series is at the same or lower PCEL level as the classification series from which the employee is moving.~~



**13.11. ~~Selective~~ Certification-Position Requirements** means specific qualifications ~~which have been approved by Civil Service~~ that are narrower or more limited than those generally associated with a ~~job-classification~~ position, and ~~that~~ are determined to be essential for performance of the duties of a specific position.

**13.12. Subclass** means additional specialized experience, specialized training, licensure, or other specialized qualification that is required for appointment to a specific subgroup of positions. ~~within a job-classification.~~

**13. Total Continuous Service** means the number of paid hours of creditable time compiled during a current employment period. Total continuous service includes creditable time but does not include noncreditable time.

**~~A.14.~~ Creditable time** means each of the following:

~~1.a.~~ Time in a career ~~appointment~~ ~~or limited-term classified position~~. The following times are counted as creditable time:

~~a.1.~~ Time in an indefinite appointment ~~career position~~ that is interrupted by a layoff ~~or leave of absence~~.

~~a.2.~~ Time in a ~~limited-term position~~ career appointment that is interrupted by a leave of absence.

~~e.3.~~ Time in a career ~~limited-term position~~ appointment that ends as a result of a voluntary, non-disciplinary, non-retirement separation that is immediately followed by appointment to another classified position without a break in service (e.g., resign on Friday and ~~return-start~~ to work on the following next Monday).

~~2.4.~~ Time in a position in the unclassified service if the appointing authority granted a leave of absence for the unclassified appointment. The time is creditable to the classification level from which the leave was granted.

~~3.5.~~ Time on a military leave of absence including temporary and emergency military leave, if authorized by Civil Service rule or regulation or required by federal law.

~~4.6.~~ Time for emergencies, transients, and expiration of limited appointments prior to January 1977, providing they are not followed by a separation.

~~5.7.~~ Time on a paid leave of absence.



**B.15.** *Noncreditable time means each of the following:*

~~1.a.~~ *Time preceding a separation, dismissal, retirement, or other break in service from state employment, unless expressly defined as creditable time in Section 2.19 Subsection (h)(1), of the Michigan Civil Service Commission rules.*

~~2.b.~~ *Time on an unpaid leave of absence, including, for example, medical leave or educational leave.*

~~3.c.~~ *Time on an unpaid suspension.*

~~4.d.~~ *Overtime in excess of ~~eighty~~ (80) hours in a biweekly pay period.*

~~5.e.~~ *Time in a non-career ~~position~~ appointment.*

~~6.f.~~ *Military service time that is creditable for retirement only.*

~~7.g.~~ *Lost time.*

~~8.h.~~ *Time in layoff status.*

**B. Additional Definitions. As used in this regulation:**

1. **Bumping** means the process by which an employee displaces another, or is placed in a vacant position, through application of employment preference.
2. **Departmental Layoff Plan** means a layoff plan that varies the application of employment preference as follows: County preference based on organizational or geographic limits; between recognized autonomous entities of a principal department; into additional positions in class clusters approved by the appointing authority and the Department of Civil Service; between employment type employee status codes.
3. **Minimizing Loss of Pay** means allowing application to the least senior position in a classification ~~at the same PCEL, or successive PCELs,~~, which provides the least loss of pay. Other compensation factors (overtime, shift differential, special pay premiums, etc.) are not considered in this application.
4. **Protected Position** means positions that are protected from application of employment preference, including positions in Senior Executive Service

(SES and SES-eligible classifications; positions in Group Four classifications of the Equitable Classification Plan; positions in Senior Executive Management Service (SEMAS) classifications, and any other position designated as protected in any other rule or regulation.

5. **Reduction in Force (RIF)** means an action taken by an appointing authority to lay off, demote, or otherwise displace an employee for reasons of administrative efficiency, including, for example, lack of work, lack of adequate funding, change in mission, or reorganization of the work force.
6. **Seniority** means "total continuous service," as described in the Civil Service Commission Rules, Section 2-19-2-4.5(c).

#### 4. **STANDARDS:**

- A. **Application of Preference Must Be in Accordance with Section 2-192-4 of the Civil Service Commission Rules.** Departments that have an approved departmental layoff plan must apply preference in accordance with that plan.

Departments are encouraged to review their departmental layoff plans ~~in accordance for compliance~~ with the Civil Service Regulation 2.02, "Departmental Layoff Plans." Any departmental layoff plans or changes to existing departmental layoff plans must be approved by the Department of Civil Service at least twenty-eight (28) calendar days prior to implementation.

- B. **Management Rights and Responsibilities.** Management will determine where positions will be eliminated in an organization for reasons of administrative efficiency including, for example, lack of work, lack of adequate funding, change in departmental mission, or reorganization of the work force.

The time frames for the freeze of information utilized in the determination of employment preference shall be as follows:

- a.1. Selective ~~certification~~—position\_\_requirements and subclass code assignments, shall be ~~that those~~ which ~~is~~ are in effect twenty-eight (28) calendar days prior to implementing the (RIF).
- a.2. The appointing authority shall establish the effective freeze date for information about continuous service hours (seniority), classification actions (~~reallocations~~reclassifications, establishments,

~~restrictions~~frozen positions, etc.), and selection actions (appointments, ~~reassignments~~job changes, etc.). This date must be uniformly applied for this information and may not be more than twenty-eight (28) calendar days prior to implementing the RIF.

Departments may offer the opportunity for voluntary layoffs to satisfy their reduction needs. Such employees are entitled to recall in accordance with Civil Service rules and regulations.

Departments may reassign the more senior employees in a classification, ~~location~~county, or work shift, whenever practical, prior to application of employment preference so that the effects of layoff, relocation, or reduction in classification level are applied to the least senior employees unless modified by an approved departmental layoff plan.

Once employment preference rights have been determined and notices of the RIF action have been provided to the affected employees, the department does not need to revise or change its bump chain based on changes in employees' decisions regarding the exercise of preference.

Factors used must be equitably and consistently applied by the appointing authority.

### **C. Employee Rights to Apply Preference.**

~~Unless modified in an approved departmental layoff plan:~~

- ~~a.1.~~ The application of employment preference shall be within the county of employment unless otherwise modified in an approved departmental layoff plan.
- ~~a.2.~~ There will be no bumping between ~~employment type~~employee status codes. An employee can only bump within the current ~~employment type~~employee status code unless otherwise modified in an approved departmental layoff plan.
- ~~a.3.~~ An employee in an indefinite appointment who accepts a limited-term appointment has the right to apply preference upon expiration of the limited-term appointment at the former indefinite classification and classification level.

4. All entry through experienced classification levels within a series will be grouped as though they are one. The least senior employee within the class series would be bumped first, regardless of the specific classification level.

**Employment Preference for State Transitional Professional and into Departmental Trainee, Professional, and College Trainee and State Transitional Business and Administrative Technician Positions**

- A. When determining the application of employment preference into State Transitional Professional, Departmental Trainee, and State Transitional Business and Administrative Professional, ~~and College Trainee~~ positions, the following standards are to be followed:
  1. Identified State Transitional Professional and Departmental Trainee and Professional Trainee positions shall be converted to the appropriate professional classification series. Identified State Transitional Business and Administrative Technician positions shall be converted to the appropriate Technician classification series. Group all ~~levels,~~ entry (9) through ~~journey (P11),~~ experienced classification levels within a series as though they are one. The least senior employees within the ~~9- through P11- level group class series~~ would be bumped ~~from their positions~~ first, regardless of the specific classification levels ~~of individual positions~~.
  - ~~1.2.~~ Regardless of the classification level of the employee being bumped, the employee applying preference would immediately be classified at the classification level for which eligible.
  3. The pay protection applied to the employee in a State Transitional Professional, and pay range applied to the incumbent of a Departmental Trainee or a State Professional ~~Transitional Trainee Business and Administrative Technician~~ position will not be available to the employee bumping into the position. ~~The provision for "Salary Upon Appointment to the College Trainee 9 Classification" should be applied in bumping into professional 9-level positions to minimize problems in pay applications (see the current Compensation Plan).~~
2. ~~An affected employee must first apply preference to positions in the current classification series. If no bump is available, preference would be applied to the least senior positions in the classification series at or below the level in which the employee has satisfactorily completed 1,040 hours of service.~~

~~Regardless of the level of the employee being bumped, the employee applying preference would immediately be allocated at the level (9, 10, or P11) for which eligible.~~

B. When determining the application of employment preference from State Transitional Professional, Departmental Trainee ~~or~~ or State Transitional Business and Administrative Technician Professional Trainee positions, the following standards are to be followed:

1. An employee bumped from a State Transitional Professional, Departmental Trainee or State Transitional Business and Administrative Technician ~~9 or Professional Trainee 9~~ position will first apply preference to positions in the classification ~~and~~ level held prior to appointment to the Transitional or Trainee position (if a non-bargaining unit classification), then to other classifications at that level and below in which the employee ~~has satisfactorily completed 1,040 hours of service previously attained status.~~
2. An employee who has completed two or more years ~~(4,160 or more hours)~~ of experience in the Transitional or Trainee classification is also eligible to apply preference to other journey experienced level ~~(P11)~~ classifications in which the employee ~~has satisfactorily completed 1,040 hours previously attained status.~~
3. An employee who has completed one to two years ~~(2,080 to 4,159 hours)~~ of experience in the Transitional or Trainee classification is eligible to apply preference to other intermediate ~~(10 level)~~ classifications in which the employee ~~has satisfactorily completed 1,040 previously attained status.~~
4. An employee with less than one year ~~(less than 2,080 hours)~~ of experience in the Transitional or Trainee classification is eligible to apply preference to other entry-level ~~(9 level)~~ classifications in which the employee ~~has satisfactorily completed 1,040 hours previously attained status.~~
5. The pay protection previously afforded the employee in the State Transitional Professional, Departmental Trainee, ~~or~~ State Transitional Business and Administrative Technician Professional Trainee position will not be carried to the new position.

#### **State Transitional Manager Positions:**

A State Transitional Manager position which appears in a bump chain must be converted to the new professional managerial classification to which the

~~incumbent employee~~ is moving and employment preference applied to the correctly classified vacant position. The ~~incumbent of employee in~~ the State Transitional Manager position will first apply employment preference to positions in the classification ~~and~~ level held prior to ~~transfer the lateral job change~~ to the transitional managerial position.

### **Restricted-Frozen Positions:**

~~Restricted-Frozen~~ positions must be considered in the application of preference. A ~~restricted-frozen position which appears in a bump chain~~position that appears in a bump chain must be identified as to its proper classification ~~and~~ level prior to implementation of the bumping. Simultaneously with the bump, the ~~restricted-frozen~~ position must be converted to its proper classification ~~and~~ level and employment preference applied to the correctly classified vacant position. The ~~incumbent of employee in~~ the ~~restricted-frozen~~ position will exercise employment preference beginning at the ~~PCEL classification level~~ of the ~~restricted-frozen~~ position. (See Attachment A for an example of applying this standard.)

### **Group Four, Senior Executive Service (SES), and Senior Executive Management Assistant Service (SEMAS):**

A. ~~Incumbents-Employees~~ in affected Group ~~4-Four~~, SES, or SEMAS positions shall first apply preference to positions in the classification ~~and~~ level held prior to ~~transfer~~appointment to the Group ~~4-Four~~, SES, or SEMAS position.

1. **Employee Qualification to Apply Preference.** An employee shall apply employment preference only within the employee's current principal department or autonomous entity unless otherwise permitted in an approved departmental layoff plan. An employee may not apply preference against a protected position.
2. An employee is eligible to apply preference (1) to a least senior position in a classification or classification series in which the employee is serving, or, (2) to a least senior position in at a lower classification or in the current classification-class series or, alternatively, to the same or lower classification in a former class series for which the at or below the level in which the employee has previously served and completed at least 1,040 hours of satisfactory service. attained status.

~~NOTE: Employment preference cannot be applied to a higher classification level~~  
~~Regardless of whether the employee satisfactorily previously 1,040 hours of service attained status at a higher classification level, employment preference can~~

only be applied to positions that will result in placement at the employee's current or lower classification level.

3. Once all employee preference rights to NERE classifications have been exhausted, the employee may be eligible to apply preference to a position covered by a collective bargaining agreement, in accordance with Civil Service Rule 2-17.54.5.

## **B. Determination of Employee Qualifications.**

- a.1. ~~Departments will make determinations of qualifications using credential information including, but not limited to~~Information that will assist departments in making determinations of qualifications will consist of, but not be limited to:

2. The employee's state employment history record ~~(043 on PPRISM).~~

~~2. Advisory Bulletin CS-312-93, "Subclass Code Experience Requirements and Definitions for Classifications Tested in the Business and Administrative 12-15 #9971 Examination," for subclass code requirements and definitions.~~

- 3.a. Position information, such as approved selective ~~certification~~ position requirements and position subclass code assignments, available within the department's personnel office.

- b.3. ~~After initial analysis, t~~he department should may contact Civil Service when any of the following circumstances existat any time for assistance in determining employee qualifications.

~~1. The determination of the bumping rights of an employee reaches a PCEL in the employee's history that includes pre-benchmark classifications, and the benchmark conversions are not readily determinable by using Benchmark Conversion Charts or other information generated by or available from Civil Service. If direct contact with Civil Service provides the information, a Qualification Review will not be required.~~

~~2. The determination of the bumping rights of an employee reaches a PCEL in the employment history that includes classifications that have been abolished and the department is unable to determine if the abolished classifications were converted or replaced by new classifications~~



~~3.A review for subclass code qualification is required and the department is uncertain whether an employee's education or state classified experience qualifies for a specific subclass code. When the possession of educational requirements are not readily determinable, the employee transcript must be used to verify educational credentials and must be attached to the CS-153A form.~~

**C. Determination of Application of Employment Preference (Seniority).** The determination of preference must be based on continuous state service as recorded in the ~~continuous service hours counter from the Personnel Payroll Information System for Michigan (PPRISM)~~HRMN, adjusted to deduct noncreditable time.

If two or more employees have equal total continuous service, the appointing authority shall rank each employee by evaluating such factors as fitness for the position, education, experience, behavior, and performance. An employee receiving a higher ranking shall be considered to have greater employment preference. An employee may not appeal a ranking to the Department of Civil Service or the Civil Service Commission unless the ranking violates Rule ~~4-21-7~~.

An employee having status from current employment, regardless of the classification level at which status was obtained, shall have greater employment preference than an employee who does not have status.

~~**Calculation of Service Hours.** The calculation of service hours must apply the same standards as those used to convert from pre-Payroll Personnel System history records to the Payroll Personnel System in 1974 and to PPRISM in 1987. The method used is described in this regulation under "Guidelines for Determining Eligibility to Apply Employment Preference."~~

~~**Determination of Application of Employment Preference (Geographic).** The application of employment preference shall be within the county of employment, unless modified by an approved departmental layoff plan. In departments having no approved plan, employees will have exhausted all bumping rights to nonexclusively represented positions when there are no possible bumps within the county of employment.~~

~~For employees in departments having an approved departmental layoff plan which modifies the geographic application of employment preference to alternatives other than within the county of employment, bumping rights shall be considered exhausted in accordance with the following standards:~~

~~a. When the approved plan allows the application of preference to positions in a specific facility prior to application within the county, employees will have exhausted all bumping rights to nonexclusively represented positions when there are no possible bumps to positions within the county of employment.~~

~~b. When the approved plan includes the mandatory application of preference beyond the county of employment, employees will have exhausted all bumping rights to nonexclusively represented positions when there are no possible bumps to any positions in accordance with the departmental plan.~~

~~c. When the approved plan provides elective geographic options, employees will have exhausted all bumping rights to nonexclusively represented positions when there are no possible bumps within the county of employment and to additional geographic options specifically selected by the employee.~~

**D. Effects of Decisions from Grievance, Technical Appeal, etc.** Grievance, technical appeal, court, or other decisions may require application of preference to be reconstructed for certain affected employees. Retroactive ~~reallocations~~ reclassifications will not be justification for reapplication of preference.

**7.E. Pay.** Application of preference to a classification ~~and~~ level other than the current classification ~~and~~ level must minimize loss of pay. The maximum pay rate for each classification shall be used to determine which classification provides the least loss of pay. An employee bumping into a different classification shall not earn more upon entry than the rate earned in the classification from which the employee bumped unless the minimum rate of the new classification exceeds that of the existing classification.

**7.F. Notice.** Affected employees must be issued written notice of the RIF no less than fifteen (15) calendar days prior to the effective date. The employee must be given at least seven (7) calendar days to indicate acceptance of an available bump or preference for layoff. If a layoff is delayed due to a court order that is subsequently rescinded or overruled, a second fifteen-day notice is not required.

## **GUIDELINES FOR DETERMINING ELIGIBILITY TO APPLY EMPLOYMENT PREFERENCE:**

**Step 1:** Identify the classifications and classification levels of the positions which are to be abolished.

Step 2: Determine the seniority of individuals who will be affected by the position abolishments.

A seniority listing of nonexclusively represented employees is needed to accomplish this step. Such a listing can be obtained by requesting a M.I.D.B. Report from the State Department of Management and Budget Office, Office of Accounting/Financial Management. This list should contain:

Name	Continuous Service Hours
<u>Social Security Employee</u> Number	*Unclassified Service Hours
Classification and <u>Classification</u> Level	*Military Service Hours
Position <u>Number/Code</u>	*County Service Hours
County	*College/University Service Hours
<u>PCEL</u>	

~~\*Not required if seniority hours are calculated and included in the report.~~

~~**NOTE:** It is expected that most departments will have adjusted total seniority calculations. The following steps should be taken if this has not already been completed: The department should determine if any seniority rankings need to be recalculated due to noncreditable time and recalculate any seniority hours, as necessary, and adjust employment preference ranking as required.~~

~~a. Determine if any seniority rankings need to be recalculated due to noncreditable time which is included in PPS continuous service hours counter (from PPRISM).~~

~~b.a. Recalculate any seniority hours, as necessary, and adjust employment preference ranking as required.~~

The following steps are required to calculate Sseniority calculation steps:

~~A.1. Obtain an PPS-043 employment history printout (from PPRISM).~~

~~B.2. Subtract starting date of the current employment period from the effective freeze date (no more than twenty-eight (28) calendar days prior to the notice of layoff) to obtain years, months, and days of employment. If necessary to convert, use the following formula to calculate total continuous service hours.~~

1 Year	=	2080 hours
1 Month	=	174 hours
1 day	=	5.8 hours

B.3. Subtract any noncreditable time from the total continuous service hours.

Step 3: Determine the preference right of the most senior affected employee first, then proceed to the next most senior, etc., as follows:

- A. Convert any identified ~~restricted-frozen~~ positions to their proper classification and/or classification level. Refer to Attachment A for an example of how to properly include ~~restrictedfrozen~~ positions in a bump chain.
- B. Convert any identified State Transitional Manager positions to the appropriate new professional managerial classification to which the incumbent-employee is moving. The incumbent-employee shall first apply preference to positions in the classification ~~and~~ level held prior to transfer to the transitional managerial position.
- C. If any of the identified positions are entry, ~~intermediate, or journey-through experienced~~ level ~~(9-P11)~~ professional positions, convert Departmental Trainee or State Transitional Professional Trainee positions to the appropriate professional classification ~~series~~. Group all 9-P11-entry through experienced classification ~~levels~~ positions within a series as though they ~~were all are~~ one ~~level~~. The least senior incumbent-employee within the group-class series would be bumped first. See Attachment B for an example of the correct application of employment preference into professional-entry through journey-level professional positions.
- D. If any of the identified positions are entry through experienced level business and administrative technician positions, convert State Transitional Business and Administrative Technician positions to the appropriate technician class series. Group all entry through experienced classification levels within a series as though they are one. The least senior employee within the class series would be bumped first.
- D.E. If any of the identified positions are (1) Equitable C classification ~~P~~ plan, g Group ~~F~~ four classifications: ~~including the (2)~~ Senior Executive Service (SES) classifications; or ~~(2)(3)~~ Senior Executive Management Assistant Service (SEMAS) classifications, the incumbent-employee shall

first apply preference to positions in the classification ~~and~~ level held prior to ~~transfer appointment~~ to the Group ~~4~~Four, SES, or SEMAS position.

~~E.F.~~ If necessary, determine which subclass code requirements the affected employee meets. An employee is eligible to apply preference only if the employee has been assigned one or more of the same subclass codes at or above the classification level of the position to which the employee is bumping. ~~See attachment C for an example of how to apply preference to positions having assigned subclass codes.~~

~~E.G.~~ Eliminate from consideration any positions for which the employee does not meet the selective ~~certification~~ position requirement or subclass code requirements.

~~F.H.~~ If necessary, ~~submit a Request for Qualification Review (CS-153A). (See Standard 9B of this procedure)~~ contact Civil Service for assistance in determining employee qualifications.

~~F.I.~~ Using the seniority listing, identify the least senior position in the classification or classification series, at the current or lower level, that will minimize loss of pay. Employment preference cannot be applied to a higher classification level regardless of whether the employee ~~satisfactorily completed 1,040 hours of service~~ previously attained status.

J. Using the seniority listing, determine if the affected employee can bump in to the current classification ~~and~~ level within the county or as designated in an approved departmental layoff plan. If no bump is available, repeat Step 3~~B~~.

Step 4: Once all employee preference rights to NERE classifications have been exhausted, ~~determine if the application of employee may be eligible to apply preference to a position~~ s covered by a bargaining unit contract collective bargaining agreement is possible, or if layoff must occur.

Approved departmental layoff plans on file at Civil Service may require that the steps contained in these guidelines be altered to conform to the provisions of the plans.

## 5. PROCEDURE

### Responsibility

### Action

Appointing Authority

1. Identifies the positions that will be abolished

for reasons of administrative efficiency.

2. Converts all affected ~~restricted—frozen~~ positions ~~and~~ State Transitional Manager, ~~positions, State Transitional Professional, and~~ Departmental Trainee, or ~~Professional Trainee—State Transitional Business and Administrative Technician~~ positions to their proper classification ~~and~~ level.

3. Explores ~~reassignment~~lateral job change possibilities of the more senior employees occupying the identified positions.
4. Determines the employees who will be affected by the RIF (see the guidelines for determining eligibility to apply employment preference above).

5. May conduct layoff impact analysis.

6.5. Issues written notice to affected employees no less than fifteen (15) calendar days prior to the effective date.

7.6. Prepares a listing of all affected employees and attachments, which includes the following information:

7. Enters RIF transaction(s) into PPRISM System. Processes the personnel actions in the HRMN for layoff or job change.

- a. Name of employee.
  - b. ~~Social Security number~~Employee number.
  - c. Continuous service hours.
  - d. Current classification ~~and~~ level.
  - e. County location of current position.
  - f. Action to occur i.e., layoff or involuntary transfer.
  - g. Effective date of action.
  - h. New classification level, and county (if applicable).
  - i. Current employment history ~~(043 on PPRISM)~~.
8. Enters RIF transaction(s) into PPRISM System. Processes the personnel actions in the HRMN for layoff or job change.



~~Grievance, technical appeal, court, or other decisions may require application of preference to be reconstructed for certain affected employees. Retroactive reallocations will not be justification for reapplication of preference.~~

## **CONTACT**

Questions ~~or concerns~~ regarding this regulation should be directed to the ~~Human Resource Services Bureau Group Leader responsible for providing human resource services to the agency: Charles Green, Jr. (517) 373-3326, George Minerick (517) 373-3065, or Carol Mowitz (517) 373-3040.~~ Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 373-3048 or 1-800-788-1766, or [MDCS@state.mi.us](mailto:MDCS@state.mi.us).

<p><b><u>NOTE:</u></b> <u>Regulations are issued by the State Personnel Director under authority granted in the State of Michigan <i>Constitution</i> and the <i>Michigan Civil Service Commission Rules</i>. Regulations that implement Commission Rules are subordinate to those Rules.</u></p>
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~~This regulation is issued in accordance with *Michigan Civil Service Commission Rule 2-13.5*.~~

## ATTACHMENT A

CONVERSION OF ~~RESTRICTED-FROZEN~~ POSITIONS WHEN APPLYING  
PREFERENCE

**NOTE:** Employment preference can only be applied to the employee's current classification or class series, or, to a lower classification in the current class series, or to the same or lower classification in a former class series for which the employee ~~of satisfactory service~~ previously attained status, whichever minimizes the loss of pay in a classification or class series at and below the level in which the employee has satisfactorily completed at least 1,040 hours.

## PRIOR TO THE RIF

## Position A

~~Dept. Mgr. 15~~ Position Code – DEPTMGR4A01N  
~~PCEL 15~~ Classification Level – Departmental Manager 15  
Smith—20 years

## Position B

~~Dept. Mgr. 14RR~~ Position Code:  
DEPMGR3FA02N  
~~PCEL 14~~ Classification Level – Departmental  
Manager 14 Frozen  
Jones – 15 years

## Position C

~~Dept. Mgr. 14~~ Position Code: DEPTMGR3A03N  
~~PCEL 14~~ Classification Level – Departmental  
Manager 14  
Wilson Gomez – 10 years

## Position D

~~Dept. Mgr. 14RR~~ Position Code:  
DEPMGR3FA04N  
~~PCEL 14~~ Classification Level – Departmental  
Manager 14 Frozen  
Baker – 9 years

## Position E

~~Dept. Mgr. 13~~ Position Code: DEPTMGR2A05N  
~~PCEL 13~~ Classification Level – Departmental  
Manager 13  
Morse Goldstine – 5 years

- Position A is slated to be abolished. Its ~~incumbent~~employee, Smith, has twenty years of employment preference credit but is the least senior Departmental Manager 15 ~~incumbent~~employee. Smith must bump down to a Departmental Manager 14.
- The least senior Departmental Manager 14 is Baker. Baker occupies Position D, a ~~restricted-frozen~~ position. As Position D would otherwise be in Smith's bumping chain, Position D must be reclassified to its proper classification ~~and~~ level (Departmental Manager 13).

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3. Smith does not bump into Position D as it is now a vacant Departmental Manager 13 position. Instead, Smith bumps the now least senior Departmental Manager 14 ~~incumbent employee~~, Wilson Gomez, who occupies Position C, ~~an unrestricted Departmental Manager 14 position~~.
4. Wilson Gomez exercises employment preference beginning at the Departmental Manager 14 level. Assuming no available bump at the 14 level, Wilson Gomez becomes eligible to bump to the vacant Position D, formerly occupied by Baker, which has been properly classified at a Departmental Manager 13.
5. Baker will exercise preference beginning at the Departmental Manager 14 level. Assuming no available bump at the 14 level, Baker becomes eligible for Position E, whose ~~incumbent employee~~ has only five years of seniority.
6. Position B is also a ~~restricted-frozen~~ a Departmental Manager 14 position. However, due to seniority, Jones does not appear in any bumping chain. Therefore, Position B remains ~~restricted-frozen~~ at a Departmental Manager 14.

AFTER THE RIF

Position A is abolished  
ABOLISHED

**Position B**  
Dept. Mgr. 14 Position Code: DEPMGR3FA02N  
PCEL 14 RR Classification Level – Departmental  
Manager 14 Frozen  
Jones – 15 years

**Position C**  
Dept. Mgr. 14 Position Code: DEPTMGR3A03N  
PCEL 14 Classification Level – Departmental  
Manager 14  
Smith – 20 years

**Position D**  
Dept. Mgr. 13 Position Code: DEPTMGR2A04N  
PCEL 13 Classification Level – Departmental  
Manager 13 Frozen  
Wilson Gomez – 10 years

**Position E**  
Dept. Mgr. 13 Position Code: DEPTMGR2A05N  
PCEL 13 Classification Level – Departmental  
Manager 13  
Baker – 9 years

The former incumbent of employee in Position E, Morse Goldstine, has bumped to a position at a lower level or was laid off.

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## ATTACHMENT B

### BUMPING INTO PROFESSIONAL ENTRY THROUGH ~~JOURNEY~~ EXPERIENCE LEVEL PROFESSIONAL POSITIONS

**NOTE:** Employment preference can only be applied to the employee's current classification or class series, or, to a lower classification in the current class series, or to the same or lower a classification--or in a former class series ~~at and below the level in for~~ which the employee ~~has satisfactorily completed at least 1,040 hours previously attained status, whichever minimizes the loss of pay.~~

#### PRIOR TO THE RIF

Position A  
~~Dept. Anl. 12~~Position Code:  
PERMALTA01N  
~~PCEL 12~~Classification Level –  
Personnel Management Analyst 12  
 Miller--11 years

Position B  
~~Dept. Anl. 12~~Position Code:  
PERMALTA02N  
~~PCEL 12~~Classification Level:  
Personnel Management Analyst 12  
 Roberts--8 years

Position C	Position D	Position E	Position F
<del>Dept. Anl.</del>	<del>Prof. Trainee 9-15</del>	<del>Dept. Anl.</del>	<del>Comm Rep 9</del>
<del>P14</del> Position Code:	<del>m</del> Position Code:	<del>40</del>	<del>PCEL 07</del>
<del>PERMALTEA03N</del>	<del>PERMATREA04N</del>	<del>PCEL 09</del>	<del>Johnson--9 mo</del>
<del>PCEL 11</del> Classification	<del>PCEL 09 (in</del>	<del>Thelen--18</del>	
<del>Level -- Personnel</del>	<del>series)</del> Classification	<del>mo</del>	
<del>Management 11</del>	<del>Level -- Personnel</del>		
<del>Carter--7-8 years</del>	<del>Mangaement Analyst</del>		
	<del>Trainee 9</del>		
<del>Dept. Anl.</del>	<del>Davis--6 years</del>		
<del>40</del> PERMALTEA03N			
<del>PCEL 09</del> Classification			
<del>Level -- Personnel</del>			
<del>Management Analyst</del>			
<del>10</del>			
<del>Thelen--18 mo</del>			
<del>Position Code:</del>			
<del>PERMALTEA03N</del>			
<del>Classification Level --</del>			
<del>Personnel</del>			
<del>Management Analyst</del>			
<del>P11</del>			
<del>Chan -- 7 years</del>			

- Positions A and B are slated to be abolished and are the least senior Departmental Analyst 12 positions. They must both bump to lower level positions. ~~Incumbents~~ Employees in positions C, ~~and~~ D, ~~E, and F~~ are the lowest seniority employees ~~at in~~ the 9 through P11 ~~levels (PCEs 07-11) in professional positions class series~~. Position D must be converted to its proper class series, ~~Departmental Personnel~~ Management Analyst, and Positions C, ~~and~~ D, ~~and E~~ must be considered as though they are all at equal levels.
- Miller, the ~~incumbent employee of in~~ Position A, would bump the least senior employee in the ~~Departmental Personnel Management Analyst class series--the incumbent of Position E~~ Thelen, with eighteen (18) months of experience. Since Miller meets the experience qualification, ~~the position~~ would immediately be allocated classified at the P11 level.
- Roberts, the ~~incumbent employee~~ of Position B, would bump the next least senior employee in the ~~Departmental Personnel Management Analyst series--the incumbent of Position D~~ Davis, with 6 years of experience. ~~The position would be~~

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~~converted from the Professional Trainee 9 class to the Departmental Analyst series and allocated Roberts would be placed in Position C and would immediately be classified~~ at the P11 level.

4. ~~The original incumbent of Position E (Thelen) has no bump available in the Departmental Personnel Management Analyst class series and will be laid off. However, because Thelen satisfactorily completed 1,040 hours as a Communications Representative 9, he is eligible to apply preference to the incumbent of Position F.~~

#### AFTER THE RIF

Position A

ABOLISHED Position Code:  
PERMALTAA01N will be abolished

Position B

ABOLISHED Position Code:  
PERMALTAA02N will be abolished



Position C  
~~Dept. Anl.~~  
~~P11~~Position Code:  
~~PERMALTEA03N~~  
~~PCEL~~  
~~44~~Classification  
~~Level – Personnel~~  
~~Management~~  
~~Analyst P11~~  
~~Carter--7~~ 8 years

Position D  
~~Dept. Anl.~~  
~~P11~~Position  
Code:  
~~PERMATREA04~~  
~~N~~ will be  
~~abolished~~  
~~PCEL 11~~  
~~Roberts--8~~  
years

~~Position E~~  
~~Dept. Anl. P11~~  
~~PCEL 11~~  
~~Miller--11~~ years

~~Position F~~  
~~Comm. Rep. 9~~  
~~PCEL 07~~  
~~Thelen--18~~ mo

~~Position Code:~~  
~~PERMALTEAN03N~~  
~~PCEL~~  
~~44~~Classification  
~~Level – Personnel~~  
~~Management~~  
~~Analyst P11~~  
~~Miller--11~~ years

~~Position Code:~~  
~~PERMALTEA03N~~  
~~Classification Level~~  
~~– Personnel~~  
~~Management~~  
~~Analyst P11~~  
~~Chan-- 7~~ years

~~Dept. Anl.~~  
~~P11~~Position Code:  
~~PERMALTEA03N~~  
~~PCEL~~  
~~44~~Classification  
~~Level – Personnel~~  
~~Management Anlyst~~  
~~P11~~  
~~Roberts--8~~ years

Davis, the former incumbent employee of Position D was able to apply preference to a position in the classification that he held a prior class series to appointment to the trainee position. ~~Johnson, the former incumbent of Position F was laid off.~~

~~ATTACHMENT C~~~~APPLYING PREFERENCE TO POSITIONS HAVING ASSIGNED SUBCLASS CODES~~

~~**NOTE:** Employment preference can only be applied to the employee's current classification or class series, or in a classification or class series at and below the level in which the employee has satisfactorily completed at least 1,040 hours.~~

~~Position A  
Dept. Spl. 15  
Assigned Subclass Codes: (FINA, BUDG)  
Thomas Incumbent~~

~~Position B  
Dept. Spl. 14  
No Subclass Codes~~

~~Position C  
Dept. Spl. 13  
(ADAN)~~

~~Position D  
Dept. Spl. 12  
(AUDT)~~

~~Based upon employment history and credential review conducted prior to the reduction in force, Mr. Thomas was assigned subclass codes as follows:~~

~~Dept. Spl. 15  
(FINA, BUDG)~~

~~Dept. Spl. 14  
(AUDT)~~

~~Position A is scheduled to be abolished. There is no least senior incumbent available to bump at the 15- or 14-level.~~

~~Mr. Thomas has been determined to be ineligible to bump the 13-level incumbent because Mr. Thomas was not assigned the ADAN subclass code.~~

~~Mr. Thomas is eligible to bump into the Departmental Specialist 12 position with AUDT subclass code because he was assigned that subclass code at a level higher than the Departmental Specialist 12.~~